



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/710,779	08/02/2004	Tracey R. Thomas	57824.0600	4778

20322 7590 12/13/2010
SNELL & WILMER L.L.P. (Main)
400 EAST VAN BUREN
ONE ARIZONA CENTER
PHOENIX, AZ 85004-2202

EXAMINER

BASIT, ABDUL

ART UNIT	PAPER NUMBER
----------	--------------

3694

MAIL DATE	DELIVERY MODE
-----------	---------------

12/13/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/710,779	THOMAS ET AL.	
	Examiner	Art Unit	
	ABDUL BASIT	3694	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 November 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-8,10 and 11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-8,10 and 11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Receipt is acknowledged of a request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e) and a submission, filed on 11/2/2010.

Response to Applicant's Arguments

In the present response, the Applicant has asserted that the Official Notice was properly traversed in the July 16, 2010 response filed by the Applicant. On page 7 of the current response, the Applicant states that 1) the Applicant stated the rejections based on Official notice, 2) the Applicant provided extensive remarks addressing why the rejections would not be obvious, 3) and by doing so, the Applicant fulfilled the requirements of MPEP 2144.03 of traversing the Official Notice. Based on a review of the July 16, 2010 response, the Applicant did not traverse the Official Notice.

MPEP 2144.03 part C states:

To adequately traverse such a finding, an applicant must **specifically point out** the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art. See 37 CFR 1.111(b). See also *Chevenard*, 139 F.2d at 713, 60 USPQ at 241 ("[I]n the absence of any demand by appellant for the examiner to produce authority for his statement, we will not consider this contention."). **A general allegation** that the claims define a patentable invention without any reference to the examiner's assertion of official notice would be inadequate.

In the July 16, 2010 response, the Applicant first listed all the rejections given in the April 26, 2010 Office Action. Applicant then stated, on page 7 of the July 16, 2010 response, "Applicant respectfully disagrees with these rejections, but Applicant presents

Art Unit: 3694

claim amendments in order to clarify the patentable aspects of the claims and to expedite prosecution.” After this statement, the Applicant gave specific assertions as to why the 35 U.S.C. 103 rejections using the Vetter, King and Wardin references do not disclose the claimed features of the Applicant's invention.

However, the Applicant did not give any specific assertions to why the Wolfberg reference in view of King and Wardin does not disclose the claimed; and the Applicant did not give any specific assertion as to why the Official Notice was improper. This could have been achieved by specifically stating that the Official Notice was improper and that the Applicant requests documentary support for the Official Notice. Neither statement was used and nor was any similar statement complying with MPEP 2144.03 part C was given. Listing all the rejections was not sufficient to overcome the Wolfberg reference and was not sufficient to overcome the Official Notice.

Further, the final office action mailed on 9/27/10 did respond that since the Applicant did not respond to the Official Notice, the Official Notice rejection was not removed.

Regarding the 35 U.S.C. 103 rejection, the Applicant has now provided specific reasons as to why the Wolfberg reference does not disclose the claimed invention. Specifically, the Applicant asserts that Wolfberg does not disclose “determining a payment hierarchy that minimizes a plurality of payment penalties. Second, the Applicant asserts that Wolfberg does not disclose making a payment to savings despite investment and spending priorities. In light of the Applicant’s arguments this rejection is vacated. However, a new rejection is given forth that

Art Unit: 3694

includes the Van Leeuwen reference to teach features in the claims not taught by Wolfberg.

Response given in Applicant in Final Rejection filed on 9/27/10

1. This action is in response to Applicant amendments and remarks received on 7/16/10. Based on the Applicants response, the 35 U.S.C. 103 rejection over Vetter in view of Wardin is overcome. However, the 35 U.S.C. rejections over Wolfberg in view of King and Wardin and the 35 U.S.C. rejections over Official Notice in view of King, etc., are not withdrawn. This is because the Applicant provided no response in the remarks as to why these rejections should be withdrawn. Thus, these rejections stand and a final rejection is given on the merits.

Priority of Application Response to Previous Office Action.

Applicant has indicated that this application obtains, via a chain of applications, a priority date from Provisional Application Number 60279817. An analysis of the provisional application indicates no specific disclosure of the claim recitations regarding a savings scheme based upon an individual's monthly budget and debt obligations. Further, these features are not present in Application Number 10010947. Applicant is requested to clarify as to which portion of the claim language has the priority date of the provisional application or is later on in the chain of applications.

For the purposes of the examination, the priority date of 8/4/2004 will be used.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Official Notice in view of King.

Regarding claim 1:

Official Notice is taken that it is well known that a plan that takes into consideration debt, budgetary and saving issues. Further, Official Notice is taken that one would analyze payments and their hierarchy to determine payments. Official Notice is also taken that such a plan can be implemented on a computer.

King, not Wolfberg, teaches obtaining, by said computer-based system, purchase data from a retailer system, wherein, accessing a remote processor to standardize said purchase data is correlated to a budget item within said user budget information with an actually purchased item; and reconciling said user budget information. (see col. 2, lines 40-56)

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Wolfberg with Official Notice. Motivation to modify exists because using a

Art Unit: 3694

budgeting system with real data, using a computer network, would provide a better method of allocating and understanding one's budget and would have been obvious to try.

Regarding claim 2: Cancelled

Regarding claim 3:

Official Notice teaches allocating funds for said budget item.

King, not Official Notice, teaches that for the method of claim 1, herein establishing further

comprising establishing and storing said budget item by budget information further accessing a remote processor to select a said budget item; (see col. 2, lines 40-56 and Fig. 1)

receiving a standard identifier for said budget item; storing said standard identifier; and allocating funds for said budget item. (see col. 2, lines 40-56 and Fig. 1)

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Official Notice with King. Motivation to modify exists because using a budgeting system with real data would provide a better method of allocating and understanding one's budget and it would be obvious to try.

Regarding claim 4:

King, not Official Notice, teaches that for the method of claim 1, wherein said budget item is selected by designating one of a product category and a specific product. (see col. 2, lines 40-56 and Fig. 1). It would have been obvious to one of ordinary skill in the

Art Unit: 3694

art at the time of the invention to modify Official Notice with King, because common knowledge indicates that an item can be designated in a product category and it would be obvious to try.

Regarding claim 5:

King, not Official Notice, teaches or suggests that for the method of claim 3, wherein said standard identifier is one of a retailer ID and a manufacturer item identifier. (see *col. 2, lines 40-56 and Fig. 1*). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Official Notice with King, because common knowledge indicates that an item can be designated in a product category and it would be obvious to try.

Regarding claims 10 and 11: See Claim 1

3. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Official Notice in view of Hendrick (US Pat. Pub. No. 2005/0077348)

Regarding claim 6:

Hendrick, not Official Notice, teaches that for the method of claim 1, wherein uploading purchase data comprises using a device which includes a smart-chip. (see *paragraphs 28-32 which teach a device that has a smart chip that can obtain data*)

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Official Notice with Hendrick. Motivation to modify exists because it would have been obvious to try to use a device to upload data.

4. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Official

Art Unit: 3694

Notice (US Pat. No. 5,716,211) in view of Hardgrave (US Pat. No. 6,010,239)

Regarding claim 7:

Hardgrave, not Vetter, teaches that for the method of claim 6, wherein said device comprises one of a smartcard and a transponder. (see col. 5, lines 29-46)

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Official Notice with Hardgrave, because transponders/smartcards are common methods of transferring information and it would be obvious to try.

5. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Official Notice (US Pat. No. 5,716,211) in view of Foladare (US Pat. No. 5,914,472)

Regarding claim 8:

Foladare, not Official Notice, teaches that for the method of claim 1, further comprising alerting at least one of a consumer and a third-party when a budget reconciliation determines that one of over-spending or under-spending has occurred. (*see abstract, and col. 2, lines 15-55*). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Official Notice with Foladare. Motivation to modify exists because preventing budget issues allows for lower fees and charges for customers and merchants and it would be obvious to try.

6. Alternatively, claims 1, 3-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wolfberg in view of Van Leeuwen (US Pat. Pub. No. 2002/0123949) in view of King and in view of Wardin.

Regarding claim 1:

Art Unit: 3694

Wolfberg teaches a method of allocating income to a user savings account and to payees and monitoring purchasing activity of a consumer, said method including: wherein said recommendation includes determining, by a computer-based system for maximizing savings and based upon user savings goal information and user income information, a savings amount for transferring to a user savings account, wherein said savings amount is at least a portion of user income, and wherein user financial information comprises said user savings goal information, user debt information, user budget information and said user income information; and determining, by said computer-based system and in response to said transferring said savings amount, a **payment hierarchy** based upon said savings amount,

(see at least the following: col. 4, lines 40-65 that teach a system that includes a spending account and various other types of savings accounts; col. 5, lines 1-20 teaches different types of transactions such as credit cards and invoices; and col. 8, lines 6-50 teaches monitoring the account and determining that the account is within spending and investing guidelines)

Van Leeuwan, not Wolfberg, teaches:

analyzing, by said computer-based system, said user debt information to determine a plurality of outstanding debt payments; *(see paragraphs 40-43; paragraph 42 teaching paying off debts and paragraphs 40 and 43 teaching an order of debts to be paid to minimize interest charges))*

determining, by said computer-based system, a plurality of penalties by analyzing, for each of said plurality of outstanding debt payments, *(see paragraphs 40-43; paragraph*

Art Unit: 3694

42 teaching paying off debts and paragraphs 40 and 43 teaching an order of debts to be paid to minimize interest charges - interest charges are a form of penalty as taught in Marshall US Pat Pub. No. 2002/0116266 – paragraph 5: interest or other penalties)
said plurality of penalties **and at least one of:** said payment information

wherein said **payment hierarchy** minimizes said plurality of penalties and includes a payment priority, a payment amount, and a payment timing; and (see paragraphs 40-43; *paragraph 42 teaching paying off debts and paragraphs 40 and 43 teaching an order of debts to be paid to minimize interest charges - interest charges are a form of penalty as taught in Marshall US Pat Pub. No. 2002/0116266 – paragraph 5: interest or other penalties)*

King, not Wolfberg, teaches obtaining, by said computer-based system, purchase data from a retailer system, wherein, accessing a remote processor to standardize said purchase data is correlated to a budget item within said user budget information with an actually purchased item; and reconciling said user budget information. (see col. 2, lines 40-56)

Wardin, not Wolfberg, teaches a penalty associated with at least one of a payment amount and a payment timing; (see at least paragraphs 13-14 which teach a late fee based on when a payment is made)

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Wolfberg with VanLeeuwen and with King and Wardin. Motivation to modify exists because using a budgeting system with real data, using a computer network, would provide a better method of allocating and understanding one's budget and would

Art Unit: 3694

have been obvious to try. Further a penalty associated with interest payments would be use of a known technique.

Regarding claim 2: Cancelled

Regarding claim 3:

Van Leeuwen, not Wolfberg, teaches allocating funds for said budget item. (See *paragraph 40 teaching allocating funds for different debts*)

King, not Van Leeuwen, teaches that for the method of claim 1, herein establishing further

comprising establishing and storing said budget item by budget information further accessing a remote processor to select a said budget item; (see *col. 2, lines 40-56 and Fig. 1*)

receiving a standard identifier for said budget item; storing said standard identifier; and allocating funds for said budget item. (see *col. 2, lines 40-56 and Fig. 1*)

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Wolfberg in view of Van Leeuwen with King. Motivation to modify exists because using a budgeting system with real data would provide a better method of allocating and understanding one's budget and would have been obvious to try.

Regarding claim 4:

King, not Wolfberg, teaches that for the method of claim 1, wherein said budget item is selected by designating one of a product category and a specific product. (see *col. 2,*

Art Unit: 3694

lines 40-56 and Fig. 1). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Wolfberg with King, because common knowledge indicates that an item can be designated in a product category and would have been obvious to try.

Regarding claim 5:

King, not Wolfberg, teaches or suggests that for the method of claim 3, wherein said standard identifier is one of a retailer ID and a manufacturer item identifier. (*see col. 2, lines 40-56 and Fig. 1*). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Wolfberg with King, because common knowledge indicates that an item can be designated in a product category and would have been obvious to try.

Regarding claims 10 and 11: see Claim 1

7. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wolfberg in view of Van Leeuwen and in further view of King and in further view of Wardin and in further view of Hendrick (US Pat. Pub. No. 2005/0077348)

Regarding claim 6:

Hendrick, not Wolfberg, teaches that for the method of claim 1, wherein uploading purchase data comprises using a device which includes a smart-chip. (*see paragraphs 28-32 which teach a device that has a smart chip that can obtain data*)

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Wolfberg with Hendrick. Motivation to modify exists because it would have been obvious to try to use a device to upload data.

8. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wolfberg in view of Van Leeuwen in view of King and in view of Wardin and in further view of Hardgrave (US Pat. No. 6,010,239)

Regarding claim 7:

Hardgrave, not Van Leeuwen, teaches that for the method of claim 6, wherein said device comprises one of a smartcard and a transponder. (see col. 5, lines 29-46)

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Wolfberg with Hardgrave, because transponders/smartcards are common methods of transferring information and would have been obvious to try.

9. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wolfberg in view of Van Leeuwen in view of King and in view of Wardin and in further view of Foladare (US Pat. No. 5,914,472)

Regarding claim 8:

Foladare, not Wolfberg, teaches that for the method of claim 1, further comprising alerting at least one of a consumer and a third-party when a budget reconciliation determines that one of over-spending or under-spending has occurred. (see *abstract, and col. 2, lines 15-55*). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Wolfberg with Foladare. Motivation to modify exists because preventing budget issues allows for lower fees and charges for customers and merchants and would have been obvious to try.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ABDUL BASIT whose telephone number is 571-272-5506. The examiner can normally be reached on Flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 571-272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ABDUL BASIT/
Examiner, Art Unit 3694

/KIRSTEN S APPLE/
Primary Examiner, Art Unit 3694